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EXHIBIT
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HB 115

House Bill 115
January 16, 2007
Presented by Larry Peterman
House Fish, Wildlife & Parks Committee

Mr. Chairman and committee members, I am Larry Peterman, Chief of Field Operations of the Montana Department of Fish, Wildlife & Parks (FWP). I am here today in support of HB 115. The requirements for the posting and publication of orders, rules and regulations for FWP are outdated and, in some cases, impractical. They were meant for a simpler time when nailing a notice on a tree or tacking it on a bulletin board at the Court House was sufficient public notice. Times have changed and nothing has changed more than the way we communicate. This bill recommends changing the statute regarding the requirements for posting and publication of various FWP orders, rules and regulations to reflect modern methods of communication. Let me explain.

In some circumstances, the archaic publication requirements for FWP's hunting, fishing, trapping, and land use rules are confusing and sometimes difficult or potentially impossible to comply with. These rules are adopted annually or biennially as an exception to the more time-consuming requirements of the Montana Administrative Procedures Act. The rules are not valid unless they are published as required by statute, MCA §87-1-202. This proposal would cure these defects and modernize the publication requirements. The bill would codify what FWP is presently doing to actually notify the public of the hunting, fishing, trapping, and land use rules.

The present statute allows FWP to publish, i.e. make available to the public, its annual or biennial rules of "general application" in any appropriate manner as determined by FWP. This is a very open-ended requirement and not a problem. However, the real problem is the present statutory requirement for rules of "local application". Local application rules must be published in the local newspaper and posted in three conspicuous locations in the area where they apply.

This is a problem because there is room for debate as to what are rules of general application and what are rules of local application. For example, are the regulations for a specific hunting district rules of local application? If so, this would be impractical and impossible to comply with. In fact, this is part of a defense in several ongoing criminal prosecutions.

In its place, FWP proposes that the requirement for publication of regulations be met by the printing of annual or biennial regulations (hunting, fishing, trapping, and land use) in pamphlet format. These pamphlets would be available at all FWP offices and at license providers. This is how the regulations are made available to the public now.

The bill also addresses site-specific land use regulations, such as speed limits or parking restrictions in state parks, by requiring signs at the site.

For those hunting, fishing or trapping rules or management decisions that, by their very nature, must be communicated in a very short time to the public, FWP is provided in the bill with the discretion to use FWP's website, a telephone hotline, or a similar method. This type of notification is tailored to setting management seasons or game damage hunts and for closing a hunting district when the quota is reached for the hunting of a species. Finally, emergency closures would be made in the most practical and effective manner under the circumstances.

In summary, the bill will replace vague and potentially impractical methods of communicating to the public the hunting, fishing, trapping, and land use regulations with specific, practical and effective publications requirements. We urge your support of HB 115. Thank you.